

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION**

EARLE E. AUSHERMAN, *et al.*,

\*

Plaintiffs,

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v.

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Case No. MJG 01-438

BANK OF AMERICA  
CORPORATION, *et al.*,

\*

\*

Defendants.

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\* \* \* \* \*

**DEFENDANTS' EXHIBIT LIST**

Defendants Bank of America Corporation ("BAC") and Banc of America Finance Corp. ("BAAF"), through their undersigned counsel, hereby identify the following exhibits that may be used at the hearing to be held in the above-captioned matter December 8, 2004. Unless otherwise noted, all exhibits listed below include the document and all exhibits and attachments attached thereto.

1. *Earle E. Ausherman, et al. v. Bank of America Corporation, et al.*, 352 F.3d 896 (4<sup>th</sup> Cir. 2003).
2. *Earle E. Ausherman, et al. v. Bank of America Corporation, et al.*, 216 F.Supp.2d 530 (D.Md. 2002).
3. *Earle E. Ausherman, et al. v. Bank of America Corporation, et al.*, 212 F.Supp.2d 435 (D.Md. 2002).
4. The Docket Report, *Earle E. Ausherman, et al. v. Bank of America Corporation, et al.*, Case No. MJG 01-438, (D.Md.).

5. Complaint, Paper No. 1, entered February 12, 2001.
6. Amended Complaint, Paper No. 21, entered August 2, 2001.
7. Bank of America Corporation's Motion To Dismiss Plaintiff's Amended Complaint or, in the Alternative, for Summary Judgment; Memorandum in Support thereof with Exhibits, Paper No. 23, entered August 21, 2001.
8. Memorandum and Order, Paper No. 29, entered December 4, 2001.
9. Plaintiffs' Motion for Partial Summary Judgment Against Defendant Banc of America Auto Finance with proposed Order and Exhibits, Paper No. 91, entered May 17, 2002.
10. Deposition of Rodney R. Sweetland, III, Esquire, June 11, 2002.
11. Emergency Motion by Bank of America and Banc of America Auto to Stay Briefing Schedule, Paper No. 111, entered June 13, 2002.
12. Order granting Emergency Motion Of Defendants To Stay Briefing Schedule, Paper No. 114, entered June 14, 2002.
13. Memorandum and Order sanctioning counsel for Plaintiffs in the amount of \$8,649.25 and referring counsel to Court's Disciplinary Committee to determine what if any action should be taken and investigate certain representations made by Counsel to Court and as more fully set forth therein with Exhibits, Paper No. 130, entered July 24, 2002.
14. Order, Paper No. 131, entered July 24, 2002.
15. Amended Proposed Briefing/Scheduling Order, Paper No. 137, entered August 2, 2002.

16. Plaintiffs' Objections to Magistrate Judge's Order and Memorandum Opinion, Paper No. 140, entered August 7, 2002.

17. Plaintiffs' Motion and Memorandum of Points and Authorities to Recuse Magistrate Judge, Paper No. 143, entered August 12, 2002.

18. Response letter by Banc Of America Auto to Motion To Recuse Magistrate Judge by Earle Ausherman, Paper No. 155, entered August 23, 2002.

19. Memorandum and Order Denying Motion Of Plaintiffs' to Recuse Magistrate Judge, Paper No. 157, entered August 23, 2002.

20. Plaintiffs' Objections to Magistrate Judge's Memorandum and Order of August 22, 2002, with Exhibits, Paper No. 159, entered August 27, 2002.

21. Defendants' Memorandum In Opposition To Plaintiffs' Objections To Magistrate Judge's Order of August 22, 2002, with Exhibits, Paper No. 173, entered September 11, 2002.

22. Defendants' Cross Motion for Summary Judgment w/proposed Order; with Memorandum In Support of Defendants' Cross Motion for Summary Judgment with Exhibits, Paper No. 177, entered September 17, 2002.

23. Banc of America Auto Finance Corp.'s Opposition to Plaintiffs' Motion for Partial Summary Judgment with Exhibits, Paper No. 178, entered September 17, 2002.

24. Memorandum and Order Denying Motion of Plaintiffs' To Recuse Magistrate Judge; Overruling Plaintiffs' Objections To Magistrate Judge's Memorandum and Order of August 22, 2002; Adopting The Memorandum And Order Issued August

22, 2002, by the Magistrate Judge As Its Decision; Denying Recusal of Judge Marvin J. Garbis and Magistrate Judge Grimm, Paper No. 184, entered September 23, 2002.

25. Plaintiffs' Opposition to Defendants' Cross Motion To Dismiss with Exhibits, Paper No. 196, entered October 8, 2002.

26. Plaintiffs' Reply to Defendant Banc of America Auto's Opposition to Plaintiffs' Motion for Summary Judgment with Exhibits, Paper No. 196, entered October 8, 2002.

27. Defendants' Reply Memorandum in Support of Defendants' Cross Motion for Summary Judgment with Exhibits, Paper No. 204, entered October 29, 2002.

28. Memorandum and Order denying Motion of Plaintiffs for Summary Judgment, granting Motion of Defendants for Summary Judgment, denying Motion of Defendants to Exclude Testimony of Evan D. Hendricks, Paper No. 211, entered March 18, 2003.

29. Judgment Order Entered In Favor Of Defendants And Against Plaintiffs And Dismissing All Claims With Prejudice And With Costs, Paper No. 214, entered March 18, 2003.

30. Bill of Costs; Defendants' Memorandum in Support of its Bill Of Costs with Exhibits, Paper No. 216, entered April 1, 2003.

31. Defendants' Motion For Attorneys' Fees, Paper No. 217, entered April 1, 2003.

32. Memorandum and Order granting Motion of Defendants' for Attorneys' Fees, Paper No. 223, entered August 11, 2003.

33. Defendants' Memorandum In Support Of Motion For Attorneys' Fees with Exhibits, Paper No. 227, entered January 27, 2004.

34. Letter to Judge Marvin J. Garbis from Jennifer Speargas, Esquire, with Exhibits, Paper No. 235, entered February 12, 2004.

35. Order awarding costs in favor of defendants and against plaintiffs in the amount of \$8,459.10, Paper No. 247, entered March 24, 2004.

36. Defendants' Reply Memorandum In Support Of Motion For Attorneys' Fees, Paper No. 248, entered April 5, 2004.

37. Letter to Judge Marvin J. Garbis from Ava Lias-Booker, Esquire, dated July 27, 2004, with attachments.

38. Undated Solicitation letter from Rodney R. Sweetland, III, Esquire, to Plaintiffs, Exhibit 3 to Defendants' Memorandum In Support Of Motion For Attorneys' Fees, Paper No. 227.

39. Deposition of Rodney R. Sweetland, III, Esquire, June 11, 2002, Exhibit 4 to Defendants' Memorandum In Support Of Motion For Attorneys' Fees, Paper No. 227.

40. Plaintiffs' Third Amended Answers to Bank Of America Corporation's Interrogatories, Exhibit 5 to Defendants' Memorandum In Support Of Motion For Attorneys' Fees, Paper No. 227.

41. Defendant Banc of America Auto Finance Corp.'s Answers to Second Interrogatories Of Plaintiffs, Exhibit 6 to Defendants' Memorandum In Support Of Motion For Attorneys' Fees, Paper No. 227.

42. Petition for Writ of Mandamus.

43. All documents identified in Rodney R. Sweetland, III, Esquire's and Plaintiffs' Exhibit List.

Defendants respectfully reserve the right to supplement their Exhibit List to the extent provided by the FEDERAL RULES OF CIVIL PROCEDURE, the Court's LOCAL RULES, and the directives of this Court.

Respectfully submitted,

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*Attorneys for Defendants Bank of  
America Corporation and Banc of  
America Auto Finance Corp.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 29<sup>th</sup> day of November, 2004, I directed that the foregoing paper, Defendants' Exhibit List, be electronically filed and served via first-class mail, postage prepaid, to the following persons: Pamela A. Bresnahan, Esquire, Vorys, Sater, Seymour, and Pease LLP, 1828 L Street, NW, Suite 1111, Washington, DC 20036, Peter F. Axelrad, Esquire, Council, Baradel, Kosmerl, and Nolan PA, 125 West St, Fourth Floor, Annapolis, Maryland, 21404-2289, and Rodney R. Sweetland, III, Esquire, Adduci, Mastriani, and Schaumberg LLP, 1200 Seventeenth Street, NW, Fifth Floor, Washington, DC 20036.

//s//

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Todd Gustin